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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,179	03/23/2001	Jeffrey Alan Meaden		7594

7590 12/07/2004

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/816,179

Applicant(s)

MEADEN, JEFFREY ALAN

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-24, 29 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,25-28 and 30 is/are rejected.
- 7) ☒ Claim(s) 3 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**SAM RIMELL**  
PRIMARY EXAMINER

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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Preliminary Note: This office action includes new grounds of rejection which are not necessitated by amendment. Accordingly, this office action is made non-final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-8, 25-28 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Schuetze et al. (U.S. Patent 6,751,612).

Claim 1: In FIG. 1B, “Query 2” (106) is a request to retrieve data to generate a list of search results. An example list of search results is shown in FIG. 1C. Referring back to FIG. 1B, entering the sorting criteria (“Ranking Selection”) is the request to sort the items. In “Query 2”, the particular list type is sports.

The step of calling the generic data retrieval method is the step of entering the Search Interval as “Weekly”. The default format is “Frequency”, which calls for ranking the list by frequency, lacking any further definition in the claim of what the default format actually is.

The resulting list from Query 2 is then sorted according to the entered criteria.

“Query 1” represents a second request to generate data in order to produce a second list of search results. The second list is sorted using sorting criteria (“Ranking Selection”). The second list type is related to music and movies.

The step of calling the specific data retrieval method becomes the step of entering the Search Interval of “Daily”. In this instance the resulting data is not sorted in the default format

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(rank by frequency) but sorted by a different format (rank by content and frequency) which is not the default format.

The resulting list from Query 1 is then sorted and produces a second list.

Claim 2: When the specific data retrieval method is used, which occurs in Query 1, the default format (sort by frequency) can be selected, along with different, non-default formats, such as “rank by content” or “rank by content and frequency”. Switching between the different selections will transform the resulting list according to the desired selection.

Claim 4: The user interface (100) is the list sorter. It includes at least the generic data retrieval method (Search Interval: Weekly).

Claim 5: The generic data retrieval method is “Search Interval: Weekly”. The items of the first list (produced by query 2) are sorted in their default format (ranking by frequency).

Claim 6: A query produces a list of viewable data. An example of such a list of viewable data is shown in FIG. 1C.

Claim 7: The specific data retrieval method is “Search Interval: Daily”. The items are sorted according to the non-default format (ranking by both content and frequency).

Claim 8: The list sorter is the user interface (100). It encompasses both the generic data retrieval method and the specific data retrieval method.

Claim 25: Schuetze et al. in FIG. 1B discloses the step of receiving a request to sort data items by implementing Query 2 and sorting the resulting list (rank by frequency). A generic data retrieval method (Search Interval: Weekly) is applied. The default format is rank by frequency and produces a sorted list. The specific data retrieval method is conditionally recited since it is

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based upon a condition that may not necessarily have to occur, based upon the given claim language. Accordingly, it is not attributed patentable weight.

Claim 26: See remarks for claim 25.

Claim 27: FIG. 1B discloses the step of receiving a request to sort data items by implementing Query 2 and sorting the resulting list (rank by frequency). A generic data retrieval method is applied (Search Interval: Weekly). Under this same query using the generic data retrieval method, the data items are requested in default format (data ranked by frequency). The query produces a viewable list of data. The step of performing a specific data retrieval method is conditionally recited and based upon a condition that they may not necessarily have to occur, based upon the given claim language. Accordingly, it is not attributed patentable weight.

Claim 28: See remarks for claim 27. The list sorter is the template 100 in FIG. 1B.

Claim 30: See remarks for claim 1.

Claims 3 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-24 and 29 allowed.

#### Remarks

Applicant's arguments are moot in light of the new grounds of rejection. This office action is made non-final.

Applicant also raised an additional argument with regards to an interpretation by the examiner (used in both the previous office action and the present office action). This pertains to

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the finding that certain optional or conditionally recited features do not carry patentable weight. Applicant is reminded that the MPEP gives specific instruction that when claim language “suggests or makes optional” or “does not require steps to be performed” it raises a question as to whether the claim recitations are actually limiting the claim (MPEP 2106, Section C). This basis is used in interpreting certain claims within this office action (claims 25-28 and 30), when patentable weight could not be attributed to certain method steps.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell  
Primary Examiner  
Art Unit 2165